



01-30-04

1651/B

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Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

09/966,982

Filing Date

September 27, 2001

First Named Inventor

Lori J. LEHMAN

Group Art Unit

1651

Examiner Name

D. Ware

Attorney Docket Number

311412001820

### ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form - 1 pg IN DUPL	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply - RESPONSE TO OFFICE ACTION MAILED 7/30/03 - 19 pgs	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request - 1 pg	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input checked="" type="checkbox"/> Terminal Disclaimer - 1 pg	<b>1. Statement Regarding Biological Culture Deposit Under 37 CFR §1.808 - 3 pgs</b>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	<b>POSTCARD</b>
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
	Remarks	

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	Timothy A. Worrall (Reg. No. 54, 552) MORRISON & FOERSTER LLP	CUSTOMER NO. 20872
Signature		
Date	January 28, 2004	

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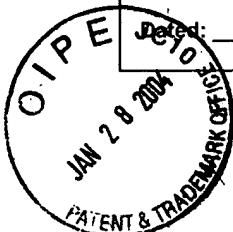
1/28/04

Signature:

LILIA OLSEN

Docket No.: 311412001820

(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Lori J. LEHMAN, *et al.*

Application No.: 09/966,982

Group Art Unit: 1651

Filed: September 27, 2001

Examiner: D. Ware

For: NOVEL STRAIN OF *STREPTOMYCES* FOR  
CONTROLLING PLANT DISEASES

**STATEMENT REGARDING BIOLOGICAL CULTURE DEPOSIT**

**UNDER 37 CFR §1.808**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants' attorney, on behalf of Applicants, hereby declares that the strain of *Streptomyces sp.* deposited under the Budapest Treaty with the Agricultural Research Service Patent Culture Collection, Northern Regional Research Center (1815 University Street, Peoria, IL 61604 USA) and assigned Accession Number B-30145 will be irrevocably and without restriction released to the public upon issuance of a patent in the present patent application.

Dated: January 28, 2004

Respectfully submitted,

By 

Timothy A. Worrell

Registration No.: 54,552

MORRISON & FOERSTER LLP

755 Page Mill Road

Palo Alto, California 94304

(415) 268-7000

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

TO  
AgraQuest, Inc.  
1530 Drew Avenue  
Davis, CA 95616

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITORY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the DEPOSITOR:	Accession number given by the INTERNATIONAL DEPOSITORY AUTHORITY:
Actinomycetes sp. AQ4800	NRRL 30145

II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I. above was accompanied by:

a scientific description

a proposed taxonomic designation

(Mark with a cross where applicable)

III. RECEIPT AND ACCEPTANCE

This International Depository Authority accepts the microorganism identified under I. above, which was received by it on June 18, 1999(date of the original deposit)

IV. RECEIPT OF REQUEST FOR CONVERSION

The microorganism identified under I. above was received by this International Depository Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).

V. INTERNATIONAL DEPOSITORY AUTHORITY

Name: Agricultural Research Culture  
Collection (NRRL)  
International Depository Authority

Address: 1815 N. University Street  
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power  
to represent the International Depository  
Authority or of authorized official(s):

Date:

J. L. Simey  
7-20-99

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international depository authority was acquired.